IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTIETH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.19810 of 2004

Between:

B.Srinivas, S/o.Narayana,
Proh & Excise, sub-Inspector, Saroornagar Station,

Rangareddy District.

..... PETITIONER

AND

1 State Human Rights Committee, A.P.,

Gruhakalpa, M.J.Road, Hyderabad, rep.by its Secretary.
2 Smt.L.Beepi Bai @ Deepti Bai, W/o. Niranjan Naik,
NTR Nagar, Near Hanuman Temple, Saroornagar, Rangareddy Dist.
3 B.Veerabrahman, Proh. & Excise Constable - 224,
Saroornagar Station, Rangareddy Dist.
4 Ch.Baloji, Proh & Excise Constable-649,
Saroornagar Station, R.R.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ order or direction more particularly one in the nature of writ of certiorari calling for the records relating to order dt.9-8-2004 on H.R.case No.4/2004 passed by the state Human Rights committee of A.P. at Hyderabad and quash the same as bad, illegal and contrary to law.

Counsel for the Petitioner: Mr. CHANDRAIAH SUNKARA

Counsel for Respondent No.1: GP FOR HOME

Counsel for Respondent No.2: Mr. B.V. BAKSHI

Counsel for Respondents 3& 4: None appeared

The Court made the following :

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O R D E R : (Per **C.V. RAMULU,J**)

This writ petition is filed challenging the Order dated 9-8-2004 made in H.R.C.No.4 of 2004 on the file of the State Human Rights Committee, Andhra Pradesh, Hyderabad.

That on 23-9-1993, the 2nd respondent herein appeared before the State Human Rights Committee and filed a representation along with photographs (positives and negatives) and medical reports issued by Medicare Hospital, L.B.Nagar, Hyderabad alleging that on the previous day i.e. 22-9-2003 at about 12 noon, the Excise Sub-Inspector of Saroornagar (writ petitioner) along with his men took her into custody from her house on the pretext that she was selling illicit arrack. Having taken her to excise station, abused her in filthy language and beat her mercilessly using third degree methods and at about 4.00 p.m. on the same day, she was produced before the Excise Magistrate, Ranga Reddy district, who granted her bail and she got treated in Medicare Hospital on the same night. The said complaint was taken on file in H.R.C.No.4 of 2004 and she was sent for medical examination by the Osmania General Hospital at 5.40 p.m. Further, the Human Rights Committee called for a detailed report from the Superintendent of Excise and Prohibition, Ranga Reddy district and also Xerox copies of the documents like FIR, record of investigation done in the crime, arrest and GD entries for 22-9-2003 of Excise Station,

Saroornagar, entries in Personal Search Register (PSR) for 22-9-2003 and remand report in that crime. Medical report was called from the Osmania General Hospital, Hyderabad. The Committee framed the following two points for consideration:

i. Whether the petitioner L.Deepi Bai @ L.Deepti Bai was subjected to custodial torture by the Respondents on 22-9-2003 after she was arrested and detained in the Excise Station, Saroornagar and thereby the respondents violated her Human Rights i.e. right to life and personal liberty.

ii. Whether the respondents have violated the guidelines of the Supreme Court issued in "D.K. Basu Vs. State of West Bengal, AIR 1997 SC 610 with respect to the arrest of the petitioner.

On behalf of the 2nd respondent herein (complainant) C.Ws.1 to 5 were examined and documents – Exs.C1 to C19 - were marked. On behalf of the writ petitioner (respondent therein) R.Ws.1 and 2 were examined and documents – Exs.R1 to R11 - were marked. After a detailed appreciation of both oral and documentary evidence, the Committee came to the conclusion as under:

> "(i) The 1st respondent, B.Srinivas, Prohibition & Excise Sub Inspector, Excise Station, Saroornagar caused injuries on the person of the petitioner Smt.L.Deepi Bai @ Deepti Bai while she was detained in Excise Station, Saroornagar on 22-9-2003 and thus caused custodial torture violating her right to life and personal liberty as guaranteed under article 21 of the Constitution of India. Thus, the 1st respondent violated the Human Rights of the petitioner.
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> (ii) The 1st respondent, B.Srinivas, failed to comply with the guidelines/requirements 2,3,6,7 and 9 issued by the Hon'ble Supreme Court in D.K.Basu case (AIR 1997 Supreme Court 610) while arresting and taking the petitioner L.Deepi Bai @ Deepti Bai into custody on 22-9-2003.
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> (iii) Respondent No.2, B. Veera Brahmam, Prohibition & Excise Constable No.224 and Respondent No.3, Ch.Baloji, Prohibition & Excise Constable No.649 of Prohibition & Excise Station, Saroornagar have not violated the Human Rights of the petitioner.

Therefore, the Committee directed the Government of Andhra Pradesh as under:

i. To pay a sum of Rs.30,000/- (Rupees Thirty Thousand only) to the petitioner Smt. L.Deepi Bai @ Deepti Bai as compensation for the infringement of her right to life and personal liberty by its employee, i.e. 1st respondent herein.

ii. This Committee further directs the 1st respondent, B.Srinivas, P&E Sub-Inspector, Excise Station, Saroornagar, to pay a sum of Rs.20,000/- (Rupees Twenty Thousand) to the petitioner

Smt.L.Deepi Bai @ Deepti Bai for violating her right to life and personal liberty and also for violating the guidelines/requirements 2,3,6,7 and 9 issued by the Hon'ble Supreme Court in D.K.Basu Case.

iii. The Government of A.P. and the 1st respondent are hereby directed to deposit the said amount within 3 (three) months from the date of receipt of this order in the District Court, R.R.District. The District Judge, R.R.District, shall pay the said deposited amount to the petitioner L.Deepi Bai @ L.Deepti Bai by remitting into her S.B.Account to be opened in any scheduled bank in R.R.District. If the petitioner fails to furnish the particulars of her S.B. Account within two months from the deposit of said amount in District Court, the District Judge shall keep the said amount in Fixed Deposit.

Aggrieved by the same, the present writ petition is filed by the 1st respondent in the said H.R.C.

Learned counsel for the writ petitioner contended that absolutely there was no evidence to connect the petitioner with the said violation found by the committee. Respondent No.2 is a notorious and habitual criminal in illicit liquor trade and she made the very complaint before the Committee to see that she will not be arrested further. Though she was arrested on 22-9-2003 and was produced before the learned Magistrate and was granted bail on the very same day, she did not complain before any authority including the Magistrate before whom she was produced about the alleged custodial torture. Only on 23-9-2003 at 4.25 p.m. she made a complaint before the Human Rights Committee i.e. one day after she was granted bail. Therefore, the whole complaint was a tutored one and the same ought not to have been taken cognizance of by the Committee and the Medical Officer of the Osmania General Hospital Casualty Ward examined the complainant-2nd respondent herein at 5.40 p.m. on 23-9-2003 and opined that the age of the injuries on the body of the 2nd respondent was of 29 hours prior to his examination. This was merely based on the statement of C.W.1 i.e. the complainant and not the opinion of the Medical Officer. Therefore, the said evidence ought not to have been taken into consideration by the Committee.

Sri B.V. Bakshi, learned counsel appearing for the 2nd respondent, supported the order passed by the Human Rights Committee.

We have given our anxious consideration to the submissions made by both the learned counsel, gone through the order of the Human Rights Committee and the entire evidence made available on record.

We are of the considered opinion that the Human Rights Committee has not committed any error requiring our interference. Respondent No.2 was arrested at 11.00 a.m. on 22-9-2003 and she was taken to Excise Station, Saroornagar at 12.30 p.m. Remand report was made at about 1.30 p.m. She was produced before the Excise Magistrate, Ranga Reddy district, at 3.15 p.m. and was released on bail at 4.00 p.m. Thereafter, at 7.30 p.m. on the very same day i.e. 22-9-2003 she went to the Medicare Hospital, L.B.Nagar for treatment of the injuries suffered by her. The Medical Officer found four injuries on the person of C.W.1. It was opined that the age of the injuries might be 24 to 48 hours prior to his examination. The injuries are simple in nature caused by known persons at her residence and the same was mentioned in Ex.C8. On the complaint filed by her on 23-9-2003, the Committee referred the 2nd respondent-complainant to Osmania General Hospital for medical examination. The Casualty Medical Officer-C.W.2 also examined the complainant and found injuries on the person of the 2nd respondent.

The committee noticed that the 4th respondent-complainant sustained injuries found on her person while she was detained in the Excise Station at Saroornagar on 22-9-2003 and was subjected to custodial torture by the writ petitioner – Excise Sub-Inspector and thereby the writ petitioner violated her human rights. We are of the opinion that the medical certificates Ex.C9 and C13 coupled with the evidence of C.Ws.2 and 3 categorically establish the injuries suffered by the 2nd respondent and the age of the injuries clearly and specifically point out to have been suffered during the period of her custody in the Excise Station, Saroornagar. Therefore, it amounts to custodial torture violating the human rights. The Human Rights Committee also found on a careful perusal of Ex.C16-arrest card that it was not prepared at the time of arrest of the 2nd respondent and it has been prepared at a subsequent time, probably with a view to sep up as a defence in this case. Under clause (2) of the guidelines prescribed by the Apex Court in **D.K. BASU v. STATE OF WEST BENGAL**, it is mandatory on the part of the Arresting Officer, while carrying out the arrest of the arrestee, to prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may be either a member of the

family of the arrestee or a respectable person of the locality where the arrest is made and it should also be countersigned by the arrestee. Whereas, in this case, it does not contain the signature of either any relative or family member of the 4th respondent or of any respectable person of the locality nor does it contain the counter signature of the arrestee. Further, a reading of column (8) of Ex.C16 goes to show that it was not prepared at the time of arrest at 11.00 a.m., but it was prepared after she was produced before the Court for remand. In Column (8), it was noted "produced before the Honourable Court". This itself is a proof positive that the arrest card - Ex.C16 was not prepared at the time of arrest, but only after producing the 2nd respondent herein before the Magistrate. In this background, it may be necessary to notice the very statement made by the writ petitioner wherein he stated "I arrested C.W.1 and issued the arrest card. Ex.C16 is the arrest card issued at the time of arrest of C.W.1……..At the time of arrest of C.W.1, number of persons have gathered and I informed them that the accused was being arrested. I did not specifically inform the relatives of the accused-C.W.1 in writing about her arrest."

From the above, it is seen that not only the requirements of law are given a go-bye, but also the guidelines laid down by the Supreme Court in **D.K.BASU**'s case (supra) while arresting a person. In this case, the arrested person being a woman, the writ petitioner could have been more careful in following the procedure as stipulated in the law and also the guidelines laid down by the Apex Court in the said judgment. In view of the above, the contention raised by the learned counsel for the petitioner as to the discrepancy in the opinion of the Medical Officers as to the age of the injuries and there was no evidence to connect the writ petitioner to the human rights violation and she did not complain before any authority including the learned Magistrate until 23-9-2003, pales into insignificance. We see no grounds to interfere with the order passed the Human Rights Committee.

Accordingly, the Writ Petition fails and is dismissed. No order as to costs.

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B.Sudershan Reddy, J

30-3-2005

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C.V.Ramulu, J

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary, State Human Rights Committee, A.P.,

Gruhakalpa, M.J.Road, Hyderabad,

2 Smt.L.Beepi Bai @ Deepti Bai, W/o. Niranjan Naik,
NTR Nagar, Near Hanuman Temple, Saroornagar, Rangareddy District.

3 B.Veerabrahman, Proh. & Excise Constable - 224,
Saroornagar Station, Rangareddy Dist.

4 Ch.Baloji, Proh & Excise Constable-649,
Saroornagar Station, R.R.District.

5 2 CCs to Govt.Pleader for Home, High Court Buildings, Hyderabad (OUT)

6 2 CD copies